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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

NO: _____

IN THE

SUPREME COURT OF THE STATE OF LOUISIANA

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October Term, 1998

Leonard Kelly, Petitioner

vs.

City of Bossier City, Respondant

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Petition for a Writ of Certiorari
from Louisiana Supreme Court

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# Petition for a Writ of Certiorari

Leonard Kelly
643 Joannes Street
Bossier City, Louisiana

20 pp.

## QUESTIONS PRESENTED FOR REVIEW

Is it lawful for State Court, including state Appellate Court and Louisiana Supreme Court to deny citizen equal protection of law?

Is it lawful for city of Bossier City to discriminate because of race, religion, and deny/deprive petitioner his lawful rights?

Is it lawful for attorney to misrepresent his client and State Court to allow this deprivation of petitioner/s lawful right and protect/allow government in their deprivation of citizens constitutional rights?

LIST OF PARTIES

Undersigned petitioner, Leonard Kelly, certifies that the following listed person, corporations, and attorneys have interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualifications or recusal.

Individuals

Leonard Kelly, Plaintiff in State case.

Associations and Corporations

City of Bossier City

Attorneys

T. Clayton Simmons
620 Benton Road
Bossier City, Louisiana 71111

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Supreme Court
United States of America

Leonard Kelly

vs.

City of Bossier City

Appeal from Louisiana
Supreme Court/2nd Circuit
Court of Appeal, 26th
Judicial Court

## Petition for a Writ of Certiorari

Petitioner, Leonard Kelly, Petition for a Writ of Certiorari to review order/judgment/ruling of Louisiana Supreme Court, 2nd Circuit Court of Appeal, 26th Judicial District Court.

## STATEMENT OF JURISDICTION

### Opinions Below

The opinion of the Supreme Court, 2nd Circuit Court of Appeal, 26th Judicial District Court is reproduced in the Appendix filed herewith 1a-4a.

### Concise statement of the basis for Jurisdiction in U.S. Supreme Court

The Jurisdiction of this Court is invoked under 28 U.S.C. 1254(1) and 2B U.S.C. 1257.

The Louisiana State Court has rendered decisions in conflict/error of U.S. Constitution and State Constitution.

City of Bossier City has arbiturarily and illegally ordered the demolition of petitioner's home, the action of the City of Bossier City is illegal and improper. Petitioner attorney represent petitioner work with the City of Bossier City against petitioner and all State Court allowed this deprivation of petitioner's lawful rights. Depriving petitioner equal protection of law.

Statement of the Case:

All proceedings until the point in the last hearing were not proper, and the order of demolition by trial court was not proper. And today's hearing will be to determine if plaintiff-appellant, Leonard Kelly, had a fair and impartial hearing with lawful representations and if city of Bossier City have a lawful rifht to take from the plaintiff and his family and the housing stock of Bossier City a structurally sound house and depriving plaintiff and his family of their property, all without just compensation, and if the trial court's action was pursuant to law, facts and evidence.

The issues presented for review:

The trial court was in error to allow defendant's employee, Steve Cawthron, regarding cost connected with the completion of repairs of above stated structure; his testimony. He is not an expert in home repairs costs estimates. Plaintiff-appellant was without lawful representation. His lawfully paid counsel worked in behalf of City of Bossier and not for plaintiff, and the trial court erred by allowing this action of counsel for plaintiff. Plaintiff is without trial court experience.

The The testimony in this case is conflicting and self serving for the City of Bossier and totally biased. Manifest error by trial court. Mr. Leonard Kelly, who is in the building/repairs business and has been in the business for over eighteen (18) years, and no one asked him, he is an expert in building repairs. Mr. Kelly estimated the costs to be less than two thousand dollars ($2,000). REPORT PREPARED BY LA. INSPECTION SERVICES, INC., SHREVEPORT, LA states clearly that the house is STRUCTURALLY SOUND, dated February 8, 1996. (Ex.(1), in part. Plaintiff's attorney would not present this evidence to the Court, and would not allow plaintiff to testify to above stated facts. Plaintiff's attorney did not properly represent him. Mr. Cawthron's testimony should not be allowed because he is not an expert in estimating building repair costs.

Argument and Law:

The court did commit manifest error by allowing counsel for the plaintiff, Gary L. Fox, to perform and work his job on behalf of Defendant, City of Bossier City. The record clearly reflects his actions, and plaintiff, Mr. Leonard Kelly, has no court experience and was without legal representation, inspite of the fact, plaintiff paid Mr. Fox to represent him, and the court knew this. The Court did error by allowing plaintiff not to have competent legal representation. The Court knew by the actions of the counsel for the plaintiff that he was not working on behalf of plaintiff. Plaintiff-appellant, Leonard Kelly has no legal or trial court experience.

Argument and Law:

The Trial court was not correct in rendering judgment that

house located at 435 Kelly Street Bossier City, Louisiana be demolished. Under the provisions of Louisiana R.S. 33:4761 & 33:4763 et seq and LA. Constitution 10, the action of City of Bossier and the court is illegal and improper, removing from the housing stock of Bossier City a structurally sound house and depriving plaintiff-appellant and his family of their property, all without just compensation and the trial court action is not pursuant to law, facts and evidence. The house was completed and up to code as per notice of Bossier City violations, dated 4/5/95, except minor plumbing repairs inside house. The house is NOT IN A DILAPIDATED AND DANGEROUS CONDITION. The city of Bossier City is not entitled to an order of demolition. The City Council order demolition of house at 435 Kelly Street, Bossier City, Louisiana is not pursuant to law and will of the citizens of Bossier City, Louisiana.

Bossier City is not entitled to an order of demolition.

**The 26th Judicial District Court, City of Bossier City violated state constitution, Articles 3 and 22 et seq. in the denial of equal protection of the laws, And discriminated against** petitioner. Petitioner hired attorney stipulates matters behind close doors, petitioner was not present, he found out after in open court when his attorney stated what agreement he had made, the court was not open and allowed adequate remedy by due process of law and justice, administered with denial, and partially to defendants.

**The state Court denied petitioner his Constitutional rights, the 14th amendment**

Reasons for Granting the Writ:

Under LA R.S. 33:4763 and Civil Rights Laws, the action of the City of Bossier City is illegal and improper, removing from the houseing stock of Bossier City a structurally sound house and depriving plaintiff and his fmaily of their property all without just compensation and the district court's action/ruling is not pursuant to law, facts and evidence, and plaintiff's attorney was not in behalf of plaintiff's interest from first hearing through last. 42 U.S.C. 1983, 1985.

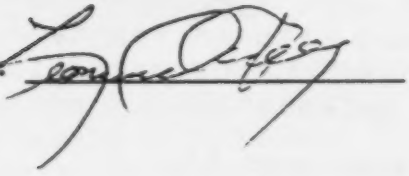
CONCLUSION:

For this reason stated, the petition for a Writ of Certiorari should be granted.

RESPECTFULLY SUBMITTED

LEONARD KELLY

643 JOANNES
BOSSIER CITY, LOUISIANA 71111
(318)741-3343
IN PROPER PERSON

BY: 

THE SUPREME COURT OF THE STATE OF LOUISIANA

LEONARD KELLY

VS 97-C-1068

CITY OF BOSSIER

- - - - - - - -

IN RE: LEONARD BOSSIER: Applying for Reconsideration of this Court's Order dated June 13, 1997, Parish of Bossier 26th Judicial District Court Division "A" Number 93,107; to the Court of Appeal, Second Circuit, Number 29418-CA

- - - - - - - -

September 5, 1997

Denied.

BJJ

WFM

HTL

CDK

JPV

CDT

JTK

CALOGERO, C. J., - not on panel.

Supreme Court of Louisiana
September 5, 1997

_____
Clerk of Court
For the Court

The Supreme Court of the State of Louisiana

LEONARD KELLY

VS. NO. 97-C-1068

CITY OF BOSSIER

- - - - - -

IN RE: Kelly, Leonard; - Plaintiff(s); Applying for Writ of Certiorari and/or Review; Parish of Bossier 26th Judicial District Court Div. "A" Number 93, 107; to the Court of Appeal, Second Circuit, Number 29418-CA

- - - - - -

June 13, 1997

Denied.

WFM

HTL

CDK

BJJ

JPV

CDT

JTK

CALOGERO, C. J. - not on panel.

Supreme Court of Louisiana
June 13, 1997

_____

Clerk of Court
For the Court

No. 29,418-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

LEONARD KELLY Plaintiff-Appellant

versus

CITY OF BOSSIER Defendant-Appellee

* * * * *

Appealed from the
Twenty-Sixth Judicial District Court for the
Parish of Bossier, Louisiana
Trial Court No. 93,107

Honorable Dewey E. Burchett, Jr., Judge

* * * * *

LEONARD KELLY In Proper Person

T. Clayton Simmons
Assistant City Attorney Counsel for
Appellee

* * * * *

Before MARVIN, HIGHTOWER and GASKINS, J.J.

Leonard Kelly, in proper person, appeals from a trial court judgment directing the demolition of a house he owns in Bossier City. We Affirm.

FACTS

Mr. Kelly, the appellant, owned a house located on Kelly Street in Bossier City, Louisiana. Commencing in April 1995, Mr. Kelly began receiving notices of Bossier City code violations pertaining to the condition of this structure. Orders for demolition of the house were issued by the City Council of Bossier City in October 1995 and again in February 1996.[1]

On February 13, 1996, Mr. Kelly filed suit against the City of Bossier complaining of the city council order issued February 6, 1996, which condemned and ordered the destruction of his house on Kelly Street. Mr. Kelly contended that the house was structurally sound and that its demolition was not warranted.

On May 7, 1996, the trial court continued the case until June 21, 1996, giving Mr. Kelly 45 days to bring the house up to code specifications. (In court, the judge informed Mr. Kelly that this was his "absolute last change" to correct the situation.) The City of Bossier was ordered to iss issue all permits properly applied for and which were necessary to complete construction and to bring the structure "up to code." An interim order to that effect was signed on May 22, 1996.

The case came before the trial court on June 21, 1996, for a determination of whether Mr. Kelly had complied with

[1]Although evidence in this record is scant, both sides concede these undisputed facts in their briefs. Mr. Kelly admits in his original brief that the first order of demolition was postponed by the city council in order to give him an opportunity to remedy the situation.

the court's 45-day order. The parties stipulated that all y proceedings up to that point and the order of demolition by the city council were proper. Mr. Kelly testified that he had made a number of repairs. However, he stated that he required at least another 30 to 45 days to complete the le necessary renovations. He testified that he had been unabless to do so previously because of financial problems. On crosnit examination, he admitted that he had never taken out a perm for the electrical work on the house and that the plumbing permit had only been taken out the previous day.

The City presented the testimony of Steve Cawthon, a t- building inspector for the Bossier City Permits and Inspectork ions Department. According to his testimony,a permit to wo on the house had been issued June 10, 1996. Mr. Cawthon inspected the premises in question on June 14, 1996, and found Mr. Kelly ripping out floors and discovering serious termite damage. On June 20, 1996, Mr. Cawthon returned to the house. Although some renovations had been done, Mr. Kelly still had a substantial amount of work to perform, including the renovation of the entire electrical system, in order to bring the house "up to code." Mr. Cawthon estimated that about seven days of work had been performed ıe on the house in the last 45 days. On cross-examination, he further estimated that it would take $15,000 in materials alone to bring the house up to code specifications.

At the conclusion of the evidence, the trial court ordered the demolition of the house. In its oral reasons for judgment, the trial court noted not only the efforts of the city to work with Mr. Kelly, but also the fact that the trial court itself had given Mr. Kelly additional time to remedy the situation. However,Mr. Kelly was, in the words of the trial court, "a champion of procrastination."ıg On June 28, 1996, thr trial court signed an order directin the demolition of the house.

Fox,

Although Mr. Kelly was represented in court by Gary F Mr. Fox subsequently moved this court for permission to ad withdraw as plaintiff's counsel, stating that Mr. Kelly haat- discharged him. He also asserted that Mr. Kelly had threa ened him. The motion was granted. Mr. Kelly filed a response in which he admitted firing Mr. Fox but denied threatening him.

On appeal, Mr. Kelly proceeded in proper person, raising three assignments of error.

## COST OF REHABILITATION

In his first assignment of error, Mr. Kelly contended that the trial court erred in allowing testimony from Mr. Cawthon as to the cost of rehabilitating and bring the house "up to code." However, this question was asked -- without objection -- by Mr. Kelly's own counsel. Consequently, Mr. Kelly cannot be heard to complain about it on appeal.

## LEGAL REPRESENTATION

Next, Mr. Kellycomplained that the trial court erred in "allowing plaintiff not to have competent/legal representation." He asserted that his attorney did a poor job on his behalf and that the trial court should have taken some action to protect him from his own retained counsel.

Mr. Kelly hired Mr. Fox to represent him in the present matter. The trial court in the instant civil case was under no obligation to advise Mr. Kelly about the quality of the legal representation he was receiving from the attorney he employed to protect his own interests. Thus, the court's alleged failure to take some unspecified action on behalf of Mr. Kelly, cannot be an issue on appeal.

If Mr. Kelly is dissatisfied with the services rendered on his behalf by Mr. Fox, the proper forum for such grievances is either in a complaint to the Louisiana State Bar Association or in a suit for legal malpractice.

## DEMOLITION ORDER

In his final assignment of error, Mr. Kelly argued that the trial court erred in ordering demolition of the house because there was noeevidence that it was in a dilapidated and dangerous condition. However, we note that at the beginning of court on June 21, 1996, the parties stipulated that all proceedings up to that point and the order of demolition by the city council were proper and that the sole purpose of the hearing was to determine whether Mr. Kelly had complied with the court's 45-day order.

Stipulations have the effect of judicial confessions. They become the law of the case and are ginding on the trial court "when not in derogation of law." R. J. D'Hemecourt Petroleum, Inc. v. McNamara, 444 So. 2d 600 (La.1983), cert. den., 469 U.S. 820, 105 S.Ct. 92, 83 L.Ed.2d 39 (1984); Comberrel v. Basford, 550 So.2d 1356 (La. App. 5th Cir. 1989), writs denied, 556 So. 2d 1284, 1286 (La. 1990). A judicial confession constitutes full proof against the party who makes it. See La.C.C. art. 1853. Such a confession is designed to dispense with evidence and has the effect of withdrawing the subject matter of the confession from issue. Davis v.Kreutzer, 93-1498 (La. App. 4th Cir. 2/25/94), 633 So. 2d 796, writ denied, 94-0733 (La. 5/6/94), 637 So. 2d 1050; Fisher v. River Oaks, Ltd., 93-677 (La. App. 5th Cir. 3/16/94), 637 So. 2d503. However in order for these effects to be imposed, the other party must have detrimentally relied on the statement or was led to believe that the fact was not at issue. Fisher, supra.

In the instant case, the parties stipulated to the correctness of all prior proceedings and the city council's order of demolition. Relying upon these stipulations, the city presented evidence on the only issue still before the trial court -- whether Mr. Kelly had availed himself the opportunity to bring the house in compliance with code specifications. By his own admissions, he had not done so.

Based upon our review of the limited issues before us, we find no manifest error in the judgment of the trial court. Accordingly, it is affirmed.

CONCLUSION

The judgment of the trial court is affirmed. Costs are assigned against the appellant.

AFFIRMED.

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|---|---|---|
| LEONARD KELLY | : | NUMBER: 93,107 |
| VERSUS | : | 26th Judicial District Court |
| CITY OF BOSSIER CITY | : | BOSSIER PARISH LOUISIANA |

JUDGEMENT

This cause having come on regularly for trial on this date, law and evidence being in favor of the city of Bossier City, and against Leonard Kelly and for reasons tis day orally assigned.

It is ordered, adjudged and decreed, that the structure located at 435 Kelly Streed is ordered demolished.

Judgment rendered in open court on this the 21st day of June, 1996.

Judgment signediin chambers on theis the 28th day of June, 1996.

Dewey E. Bu[illegible]ett, Jr.
Dist[illegible]t Judge

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